

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TIMOTHY MILLER,  
Plaintiff,  
  
v.  
  
C R BARD INC, et al.,  
Defendants.

Case No. 20-cv-06250-MMC

**ORDER DENYING AS MOOT  
DEFENDANTS' MOTIONS TO  
DISMISS**

On April 3, 2020, plaintiff Timothy Miller ("Miller"), along with nine other plaintiffs, filed a complaint in Texas state court, which complaint subsequently was removed to the Northern District of Texas. By order filed August 31, 2020, the Northern District of Texas granted plaintiffs' "Motion to Sever and Transfer Venue of Out-of-State Plaintiffs' Cases," and, in so doing, severed Miller's claims and transferred them to the Northern District of California, resulting in the above-titled action.

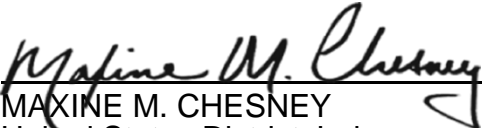
Prior to the transfer of Miller's claims to this District, defendants C.R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, "Bard") had filed a "Motion to Dismiss the Out-of-State Plaintiffs' Claims for Lack of Personal Jurisdiction." As the Northern District of Texas's order granting plaintiffs' motion to sever effectively resolved the issues raised in Bard's motion, said motion to dismiss is hereby DENIED as moot.

Additionally, prior to the transfer of Miller's claims, defendant McKesson Corporation ("McKesson") filed a "Motion to Dismiss Without Prejudice Plaintiffs' Claims for Lack of Subject Matter Jurisdiction," whereby McKesson, a citizen of Texas, asserted it had been "fraudulently joined to this action" (see McKesson's Mot. at 1), which action included claims asserted on behalf of Peggy Aguilar, a citizen of Texas. In light of the

Northern District of Texas's order granting plaintiffs' motion to sever, however, Peggy Aguilar is not a party to the instant action, and complete diversity of citizenship exists as to the four parties thereto. Accordingly, McKesson's motion to dismiss for lack of subject matter jurisdiction is hereby DENIED as moot.

**IT IS SO ORDERED.**

Dated: September 14, 2020

  
MAXINE M. CHESNEY  
United States District Judge

United States District Court  
Northern District of California